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ALLEGED POLITICAL PRESSURE TO OBTAIN EXPORT LICENSES FOR CRUDE OIL—FAILURE BY THE DEPARTMENT OF COMMERCE AND THE FEDERAL ENERGY ADMINISTRATION TO IMPLEMENT CONGRESSIONAL POLICIES

REPORT

BY THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

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LETTER OF TRANSMITTAL

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., March 4, 1976.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. House of Representatives, Washington, D.C.

I am transmitting herewith a Report of the Subcommittee on Oversight and Investigations regarding the allegations that Governor Carey, while he was a Congressman, applied pressure on the Commerce Department and the Federal Energy Office to approve export licenses that benefited his brother, an oil refiner/distributor. The staff investigation found no evidence to support allegations of political pressure with respect to Congressman Carey. The report concludes that corporate speculation and rumor concerning Congressman Carey's involvement were elevated to fact by their incorporation in government memoranda and that FEA officials compounded the error by repeating the allegations about Carey's involvement to the press as established fact.

The export licenses in question were granted because the Commerce Department was negligent in failing to develop adequate regulations to implement provisions of the Emergency Petroleum Allocation Act relating to exports of crude oil. By December 7, 1973, the Department of Commerce had accepted the responsibility for initiating "a system of export controls . . . to fulfill the President's responsibility under 'The Emergency Petroleum Allocation Act of 1973'." Although then Secretary of Commerce Dent in a letter to William Simon dated December 10, 1973, stated that the regulations "will fulfill in toto the export controls required by the Emergency Petroleum Allocation Act," the December 13, 1973 regulations did not address the mandate of Section 4(b)(1)(E) of EPAA, relating to maximum use of U.S. refinery capacity or Section 4(b)(1)(F), relating to equitable prices. In fact, regulations reflecting the mandate of Section 4 provisions of the Emergency Petroleum Allocation Act were not issued until April 18, 1974—four months after the date required by the Act and after four export licenses had been granted, resulting in a windfall of about $8 million for the exporter and higher prices to American consumers.

The report concludes that there was a serious lack of coordination between FEO and Commerce as to what policy should be followed and what regulations should be devised to carry out the intent of Congress in enacting the Emergency Petroleum Allocation Act. It concludes further that Commerce's system of export control was deficient in failing to detect and halt Chamberlain's exports of crude oil at 2½ times the controlled price when domestic refineries were operating at 76 percent capacity.

The Subcommittee will be transmitting this Report to the relevant Departments and Agencies in order to determine what steps may be taken to avoid such problems in the future.

Sincerely,

JOHN E. MOSS, *Chairman.*

Alleged Political Pressure To Obtain Export Licenses for Crude Oil—Failure by the Department of Commerce and the Federal Energy Administration To Implement Congressional Policies

I. SUMMARY

This investigation was initiated as a result of press accounts appearing in June–July 1975, reporting that an Alabama oilman, Bart Chamberlain, and an oil refiner/distributor, Edward Carey, benefitted financially during the Arab embargo, allegedly through political pressure. The Subcommittee's investigation focused solely on the alleged pressure, according to news reports, applied by then-Congressman Hugh Carey on the Commerce Department and the Federal Energy Office to approve export licenses.

Investigation by the Subcommittee staff found no evidence to support allegations of political pressure with respect to Congressman Carey—now Governor Carey—on behalf of his brother Edward. Rather, these licenses were granted because of deficiences in the crude oil export regulations promulgated by the Department of Commerce.

Shortly after the allegations of political pressure appeared in the press, Chairman John E. Moss of the Oversight and Investigations Subcommittee sought from the Commerce Department and the Federal Energy Administration (FEA) all relevant documents and correspondence relating to this matter and directed the Subcommittee staff to conduct an investigation. In a letter July 24, 1975 from the Federal Energy Administrator Frank Zarb and in a letter July 31, 1975 from Commerce Secretary Rogers Morton, Mr. Moss was assured that all relevant documents and correspondence on this matter had been turned over to the Subcommittee for purposes of its investigation. Assistant Attorney General Richard Thornburgh, moreover, in a letter of July 30, assured Chairman Moss that Commerce and FEA had turned over copies of all the material which those agencies had transmitted to the Justice Department for purposes of its investigation.

II. FINDINGS

This investigation developed no evidence that Congressman Carey exerted political pressure to obtain these export licenses. The first three licenses were speedily approved by the Commerce Department because, in the eyes of the licensing officer and the reviewing officer, they met all the technical requirements of existing regulations. The only indication of any contact by Congressman Carey's office was reportedly a telephone call to the Federal Energy Office (FEO) in early 1974, inquiring as to the procedure to be followed to obtain an export license. Not even this information could be verified.

The suggestion that political influence was used appears to have been planted in FEO investigator Robert Gossin's mind by the fragmentary information he was given by Charles Owens. Gossin's investigation can, at best, be termed inadequate. It consisted of verifying that the exports had in fact been made, two calls to Robert Wiese, a Gulf Vice President, who transmitted information from a source he no longer remembers that Congressman Carey had arranged the licenses, and a call to Robert Kan, Chief, Petroleum Licensing Unit, Office of Export Administration, Commerce, in which Gossin mistakenly assumed Carey's involvement.

Since the evidence did not support the allegations, the question remains as to who might have been motivated to spread such a story and for what purpose. Wiese said he passed on this "information" to Gossin because Gulf officials were concerned at the loss of lubricating oil Chamberlain's sales represented, and he felt that FEO might be able to block any future sales.

Neither was Charles Owens a detached observer of these events. William von Raab, Special Assistant to former Deputy Administrator, John Sawhill, told staff investigators that Owens repeatedly represented the interests of independents—Amerada Hess among them—in FEA matters. Leon Hess' refinery in the Virgin Islands is the principal competitor of Edward Carey's Bahamas refinery, BORCO. From approximately February 1974, Owens was instrumental in developing the entitlements program of which Amerada Hess was a principal beneficiary among the independents as a "net seller" of entitlements.[1] Owens acknowledged to staff investigators that he has done some work for Hess since leaving FEO and setting up his own consulting firm and that he is interested in obtaining Hess as a client for his firm.

Of the three sources mentioned in Heller's story who alleged political pressure, two have been identified—Charles Owens and Robert Gossin. The third source, who furnished perhaps the most significant information—the person who allegedly personally received a call from Congressman Hugh Carey and wrote a memo for his files about the call—remains unidentified. Heller described this source as an ex-official of FEO who has left the Washington area and is working in private industry. During the course of this investigation, the staff interviewed a number of individuals who fit this description. None admitted being the recipient of such a call and preparing a memo. In total, some thirty interviews were conducted by the Subcommittee staff in connection with this investigation. Most of these persons were summoned to appear before the Federal Grand Jury. All denied that they were the source or even having seen such a memo. The memorandum allegedly written by the source has never been found in FEO or FEA files. It is possible, though unlikely, that Heller's source was never interviewed by the staff in connection with this investigation. It is also possible that the individual refused to repeat his allegations.

Owens and Gossin acknowledged that they were sources for Jean Heller. Owens admits that he initially told reporters that Gossin had personally received a call from Carey, which Gossin says flatly is incorrect. Owens later admitted his error. Jean Heller acknowledged using the Owens and Gossin memoranda to corroborate her original tip.

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[1] Source: Federal Register, July 22, 1975, 30746.

It should be noted that major stockholders in Cox Broadcasting Corporation have interests in a refinery project in the Norfolk, Virginia area which would eventually be in competition with BORCO. There is no evidence, however, that Cox Newspaper reporter Jean Heller was aware of plans for the refinery when she broke the story.

The speed with which the first three license applications were approved by the Commerce Department suggests that political pressure was unnecessary. Rather, it appears that these licenses were granted because of deficiencies in the crude oil export regulations promulgated by the Department of Commerce. Moreover, it appears that these regulations were deficient because Commerce officials at the highest levels failed to promulgate regulations reflecting the mandate of Congress in the Emergency Petroleum Allocation Act.

Both the Alaska Pipeline Act and the Emergency Petroleum Allocation Act limited the export of domestic crude in order to lessen the impact of the Arab oil embargo. The Alaska Pipeline Act of 1973 limited only exports of crude oil which had been transported by pipeline over a Federal right-of-way, while the Emergency Petroleum Allocation Act of 1973 applied to all domestically produced oil. The Emergency Petroleum Allocation Act required that export regulations be developed, consistent with Section 4(b) objectives of the Act, by December 12, 1973. These objectives included equitable prices and maximum utilization of domestic refinery capacity.

The President's responsibility to issue new oil export regulations by December 12, 1973 was clearly understood, based on a December 5, 1973 memorandum to the Secretary of Commerce from Karl Bakke, that agency's general counsel.

On the basis of various letters and regulations issued by Commerce and FEO, it is clear that the President's responsibility to issue export control regulations consistent with the Emergency Petroleum Allocation Act was delegated to Commerce on or about December 7, 1973.

On December 13, 1973, Commerce issued export control regulations which referenced only the narrow limitations of the Alaska Pipeline Act. Exports of crude oil other than that which had been transported by pipeline over a Federal right-of-way were authorized. On the basis of these regulations, the Department of Commerce ignored the statutory mandate and failed to adequately implement the Emergency Petroleum Allocation Act of 1973.

III. CONCLUSIONS

1. There was no evidence to support allegations that Congressman Carey exerted political pressure or in any way intervened to obtain export licenses for crude oil.

2. FEO's investigation of the original information was inadequate and superficial. Corporate speculation and rumor concerning Congressman Carey's involvement were elevated to fact by their incorporation in government memoranda.

3. FEO officials compounded the error by repeating allegations about Carey's involvement to the press as established fact.

4. After the allegations appeared in the press, FEA conducted only a cursory investigation of the role played by FEO officials in fostering these allegations. FEA failed to pin down the source or the validity

of the allegation against Carey. Had it conducted anything approaching an adequate investigation, it would have determined that the allegation was based on rumor—not fact.

5. FEA never explored possible impropriety on the part of Charles Owens as a result of his relationship with Leon Hess whose refinery in the Virgin Islands is in direct competition with Edward Carey's Bahamas refinery.

6. This episode underscores the responsibility of the press to verify information received from sources who refuse to be identified and who may have ulterior motives in furnishing information to the press.

7. Commerce's system of export control was deficient in failing to detect and halt Chamberlain's exports of crude oil at 2½ times the controlled price and while domestic refineries were operating at 76 percent capacity.

8. Commerce was negligent in failing to develop adequate regulations to implement the provisions of the Emergency Petroleum Allocation Act relating to exports of crude oil.

9. There was a serious lack of coordination between FEO and Commerce as to what policy should be followed and what regulations should be devised to carry out the intent of Congress in enacting the Emergency Petroleum Allocation Act.

10. Commerce did not independently reform its deficient export control regulations but only acted when prodded by FEO, which may have been reacting to industry complaints.

11. Regulations reflecting the mandate of EPAA were not issued until April 18, 1974, 4 months after the date required by the Act and after 4 export licenses had been granted resulting in a windfall of about $8 million to the exporter and higher prices to American consumers.

IV. PRESS ACCOUNTS

The June 22, 1975 issue of *The Washington Post* carried a story by Jean Heller, Cox Newspapers, reporting that Alabama oilman Bart Chamberlain and Edward Carey, President of Carey Energy Corporation and brother of New York Governor Hugh Carey, reaped millions in profits in a secret oil deal at the height of the Arab embargo in 1974. Heller reported that then-Congressman Hugh Carey applied pressure on the Commerce Department and the Federal Energy Office (FEO), predecessor to the Federal Energy Administration, to approve the arrangement. According to Heller, the allegations were based on statements of three sources then employed by FEO who had personal knowledge of the case.

Between December 1973 and April 1974, the Commerce Department approved four export licenses for Chamberlain's company, Citronelle-Mobile Gathering Corporation, Mobile, Alabama, to sell nearly one million barrels of crude oil to the Bahamas Oil Refining Company (BORCO), Freeport, Bahamas, which is 65 percent owned by Edward Carey, 35 percent by Standard Oil of California. The crude was refined mostly into fuel oil, imported by the New England Petroleum Company (NEPCO) of New York, also owned by Edward Carey, and retailed to area utilities. This occurred at a time when refineries in the United States were hard-pressed for crude oil, operating at 76 percent of capacity, and the price of domestic crude was frozen at $5.10 a barrel.

Again, according to press accounts, the licenses enabled Chamberlain to circumvent the price controls on crude. He sold 965,110 barrels of crude to Carey's refinery for $13,311,725 at an average price of $13.79 per barrel. Thus, Chamberlain's arrangement with BORCO was worth an extra $8.69 a barrel, or $8.4 million on the four shipments. In turn, NEPCO reportedly sold the refined fuel oil in and around New York at prices of $17 to $20 a barrel.

Heller reported that of the three sources who attested to the use of political pressure, two are former FEO officials and the other still is with the energy agency, now called the Federal Energy Administration (FEA). The sources asked Heller that they not be identified. One of the sources, who, Heller said, has since left the agency, reportedly told Heller that Hugh Carey contacted him personally and that he wrote a memorandum for his files concerning the contact. Another source reportedly advised Heller that, while other FEO officials were investigating the matter, he saw the memorandum. Heller reported that FEA officials advised that a search of the agency's files failed to produce the memorandum and that they were at a loss to explain what happened to it. Governor Carey, through a spokesman, denied that he had anything to do with the matter.

In a subsequent story on July 2, 1975, Heller reported that FEA officials investigating the matter had found two memoranda dating back to the Arab oil embargo that discussed the alleged behind-the-scenes involvement of Congressman Carey. One memorandum, dated March 12, 1974, was written by Robert Gossin, an FEO investigator, whose inquiry into this matter was on instructions from his superior, Charles Owens, Deputy Assistant Administrator for Policy, Planning and Regulations. Gossin's inquiry was principally directed at the possibility that the granting of the licenses by the Commerce Department violated FEO's pricing regulations. Gossin's memorandum advised that he had verified the shipments of crude oil under the export licenses and recommended an Internal Revenue Service investigation of the matter. Gossin further advised: "Additionally, we have been advised that the crude oil was sold to Ed Carey of BORCO, and that the export license was arranged for by Carey's brother, Rep. Hugh Carey of New York."

The second memorandum was Owens' request for an IRS investigation into the matter of Chamberlain's crude exports and contained this statement: "Reportedly, subject obtained an export license with the assistance of Carey's brother, Representative Hugh Carey of New York."

Following Heller's breaking of the story on June 22, other reporters wrote extensively on the subject. In a piece of June 24, 1975, Martin Tolchin of *The New York Times* reported that a former high official of FEO confidentially advised that he had been told by a subordinate that "he got a call from Carey's office. Later on, I got a call from higher up," said the former official. "I was told that there was a lot of interest in this thing. FEO was made aware that there were political pressures involved," he continued. "They knew that there was some very high authority that wanted those licenses to go through. The pressure was coming from New York . . . from . . . the Carey brothers . . . ." Tolchin reported that the former high official of FEO was one of Jean Heller's three sources.

In a follow-up story the next day, Tolchin reported that "a former FEO aide confidentially advised that between December 1973 and March 1974, his office had received six to eight telephone calls from members of Mr. Carey's Congressional office on behalf of the licensing [application]." The former aide said that he had received two of the calls himself, and that the remainder had been received by his colleagues. In another piece several days later, Tolchin reported that the former aide had revised the figure of six to eight calls to two to four calls.

Meanwhile, during this period, Governor Carey strongly denied any role in the oil deal. "Any such story is without foundation. It is a fabrication, it is a lie. I just never heard of the guy (Chamberlain). I wasn't involved," Carey told reporters. Carey sent a letter to Attorney General Edward Levi requesting a Justice Department investigation and Levi agreed. The U.S. Attorney's office for the Southern District of New York handled this investigation and summoned a number of witnesses before a Federal Grand Jury. On February 25, 1976, the Attorney General advised Governor Carey that the Department of Justice after "an extensive investigation . . . uncovered no credible evidence to substantiate the allegations against you."

Edward Carey also denied in the press that his brother had exerted political pressure to obtain the crude export licenses, terming the three sources of Heller's story as "congenital liars." He also denied that anyone from his company ever exerted any pressure on any governmental agency.

In a story on July 8, 1975, Martin Tolchin reported that Hugh Carey was on the payroll of his brother's company during the 14 years he served in Congress, receiving an annual salary of $10,000. Asked to comment, Governor Carey advised that he received the annual salary, a fact filed with the Clerk of the House of Representatives as a matter of public record as required by House Rules, by family agreement as a supplemental income.

Governor Carey testified before the Federal Grand Jury last Fall. In a press conference following that appearance, he stated that he had not made contacts or exerted any pressure in connection with the oil deal involving his brother, had not authorized anyone on his staff to do so, and did not believe that anyone on his staff would do so without his authorization or knowledge.

V. BACKGROUND

Following implementation of the oil embargo by the OPEC nations in October 1973, the Government took steps to regulate the export of petroleum and its products. Otherwise, foreign demand would result in an excessive drain on already scarce supplies in the United States and high-priced imports would have a serious inflationary impact on the domestic economy. To impose a complete embargo on all further exports of such materials, however, was apparently deemed contrary to our foreign policy aims by the Executive Branch.

Accordingly, the Commerce Department, with the concurrence of FEO and other agencies, amended the Export Administration Regulations, effective December 13, 1973, and revised the Commodity Control List to require a validated license to export a number of petroleum products, including crude oil. With respect to crude, exports could

be licensed during the balance of 1973 in accordance with the Alaska Pipeline Act of November 16, 1973 (P.L. 93–153), which generally prohibited exports of domestic produced crude oil transported by pipeline over Federal rights-of-way except to the extent that such exports would not diminish the total quantity or quality of petroleum available to the United States. Licenses granted under the amended regulations would be valid for a period of 30 days from the date of issuance. These regulations remained in effect until they were amended to reflect the Emergency Petroleum Allocation Act on April 18, 1974.

VI. FOUR EXPORT LICENSES GRANTED TO CITRONELLE-MOBILE GATHERING, INC.

Department of Commerce records reflect the following information:

(1) Citronelle-Mobile Gathering company's initial application for an export license was filed December 20, 1973, with the Commerce Department's Office of Export Administration, for shipment of 250,000 barrels of crude oil to Grand Bahama Petroleum Company, Freeport, Bahamas, a wholly-owned subsidiary of NEPCO, at $14 per barrel and a total price of $3,500,000. Grand Bahama Petroleum Company owns a 65 percent partnership interest in BORCO, a refinery in Freeport, with Standard Oil of California owning the remaining 35 percent. The crude was sold for refining by BORCO, primarily into residual fuel oil, for resale to NEPCO and ultimate sale to utilities on the United States Eastern seaboard, including Con Edison and Long Island Lighting Company.

The application was approved December 21, 1973, and validated export license number C31226–701–1 was issued December 26. At the request of Chamberlain's company, the application and license were handled by Commerce on an expedited basis so that arrangements could be made for getting a vessel to port on or about December 29, prior to the preparation and mailing of the license. Accordingly, when the application was approved, Commerce notified Chamberlain's attorney by telephone.

On January 6, 1974, the applicant shipped 279,213 barrels of crude from Mobile to Freeport on the SS *Liberty Bell* under authority of the export license. This was nearly 30,000 barrels over the quantity specified in the export license and resulted in the use of another and larger vessel, necessitated by the unavailability of the ship originally designated for shipment due to an accident. Under export regulations, a shipping tolerance of 10 percent is allowed. Since the shipment exceeded the 10 percent and the SS *Liberty Bell* was scheduled to be used for a second shipment also, Citronelle-Mobile filed an amended application on January 17, 1974, for the additional quantity, which was approved by Commerce on January 18.

(2) Citronelle-Mobile's second application for an export license was also filed on December 20, 1973. Initially, it was proposed that one application be filed covering the first two scheduled shipments of crude; however, after consulting with the Office of Export Administration, the applicant filed two separate applications, requesting approval for the shipment of 250,000 barrels of crude to the same consignee at the same price. The second application was approved December 28, and export license number B40102–266–1 was issued January 2, 1974.

Under the amended application approved January 18, the quantity was increased to 310,000 barrels in order to utilize the full capacity of the SS *Liberty Bell*. As it turned out, this vessel was not used to transport the second shipment of crude. Instead, on January 22, 1974, the applicant shipped 254,641 barrels of crude from Mobile to Freeport on the SS *Alexandra Conway*.

(3) The third application was filed February 22, 1974, approved February 25, and export license number C40226–70301 was issued February 26. This application called for shipment of 250,000 barrels of crude to the same consignee at $14 per barrel. On February 25, 1974, the applicant shipped 231,443 barrels of crude from Mobile to Freeport on the SS *Gem Star*.

Chamberlain's Washington counsel, C. Alexander Hewes, Jr., advised that during this period of the third application (late February 1974), he discussed with Robert Kan, Chief, Petroleum Licensing Unit, Office of Export Administration, the possibility of obtaining a one-year export license covering numerous shipments of crude oil. Hewes and Chamberlain felt that since Commerce had been routinely and expeditiously approving the applications without objection, considerable time and expense could be saved by all parties by fixing the responsibilities and objectives on a long-term basis. No action ever resulted from these discussions.

On March 8, 1974, Robert Kan received a telephone call from Robert Gossin, an FEO Compliance official, concerning a possible price violation against Citronelle-Mobile Gathering, Inc. Gossin requested and was furnished export license information concerning the export of crude reportedly made by Citronelle-Mobile in December 1973 and January 1974 only, according to Gossin, since he was unaware of the third shipment in February 1974 at the time of his call to Kan.

Between the third and fourth application, the Arab oil embargo ended on March 17, 1974.

(4) On April 2, 1974, the fourth application was filed with the Office of Export Administration, this time by Citmoco Services, Inc., one of Chamberlain's companies. This application was for the shipment of 250,000 barrels of crude to the same consignee.

The information furnished by Gossin of FEO to Kan on March 8 gave Commerce cause to hold the fourth application. The application was discussed at the April 3, 1974 meeting of the Petroleum Products Exceptions Committee, comprised of representatives from Commerce and State Departments and FEO and established in February 1974, as an adjunct to the Hardship Committee. The Committee denied the application on grounds that a "case was not made to the satisfaction of the Committee that this shipment will not diminish the quality [and quantity] of petroleum in the United States."

Kan verbally notified Hewes of the pending rejection on April 3, and on April 4 prepared a formal "Notification of Rejection of Export License Application" advising Citmoco Services, Inc. of the denial for the following reasons: (a) the fact that crude might be salable at higher prices outside the United States, which was the silent concomitant of the application, cannot be a factor in the exercise of administration discretion within an export control program, (b) the accompanying affidavit was not persuasive in demonstrating that the export would not diminish the total quantity or quality of petroleum available to

the United States and would be in the national interest, and (c) it was not shown that the crude was not transported by pipeline over Federal rights-of-way. This notification was not sent, however, since Hewes advised he was preparing a legal brief in support of the fourth application.

Hewes completed his brief on April 10, 1974, and the next day, he and Chamberlain discussed the application matter with three Commerce officials—Rauer Meyer, Director, and Wilson Sweeney, Assistant Director, of the Office of Export Administration, and Richard Hull, General Counsel's Office.

Chamberlain's group maintained that the profits made on this transaction would be plowed back into development work in the Citronelle oil field in Alabama. They contended that as a result of this increase in productive capacity and in view of the fact that all of the petroleum products refined from this transaction would be returned to the United States, approval of the application would increase U.S. supply of energy products. Further, they said that relying on past approvals, the company had undertaken certain actions that would result in losses unless the application were approved. The company purchased outside crude from other U.S. companies. As a result, they said the company's storage tanks were full and it would be necessary to shut down their producing field for lack of storage space. Since the field is on a water recovery basis, a shutdown would result in a permanent loss of substantial part of the crude oil to the U.S. The storage system would be full by Saturday night, April 13. Since shipping could be arranged in two days' time, the storage and field shutdown problems were the critical element in terms of timing, they argued. It was further contended that the Alaska Pipeline Act was not applicable to the license application.

Initially the applicant indicated that the 250,000 barrels of crude would come from two sources: 96,000 barrels previously purchased from Permian Company in Texas and approximately 154,000 barrels from the applicant's own oil fields in Alabama. Upon learning that the 96,000 barrels from Permian may have been transported through pipelines crossing Federal rights-of-way and might be subject to the restrictions of the Alaska Pipeline Act, the applicant indicated he would dispose domestically of the Permian oil and purchase instead 30,000 barrels from the Miller Oil Purchasing Company. Thus, all the oil included in the shipment would be produced in Citronelle, Alabama, and would not cross Federal rights-of-way. Chamberlain offered to furnish an affidavit to this effect and did so on April 11, 1974.

An emergency meeting of the Petroleum Products Exceptions Committee was held on April 12 to consider the latest developments relating to the fourth application. The following tentative conclusions were reached: (a) The Alaska Pipeline Act did not apply; (b) No facts could be argued for control under the Export Administration Act; and (c) Still unknown was the applicability of the Emergency Petroleum Allocation Act (PL 93–159).[2] It was decided that Commerce would continue its efforts to search maps for Federal rights-of-way that might be involved and recommended placing crude oil under quantitative control, closing an obvious loophole in the Office of Export Administration regulations.

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[2] See pages 42–43 for a full discussion of the regulations mandated by the Emergency Petroleum Allocation Act.

On April 12, 1974, Rauer Meyer and Richard Hull discussed this matter with Commerce Under Secretary Tabor. In addition to the above, they discussed the following points: that William Simon, FEO Administrator, was consulted about this application by his Assistant Administrator for Operations and Compliance, John Knubel. Simon recommended that it be denied on the grounds that the applicant had failed to demonstrate that the oil could not be refined domestically. This was relayed to Commerce by Knubel. Chamberlain stated that he had not sought to offer this oil to domestic refiners because from his personal knowledge of the petroleum industry, he was aware that no U.S. refinery could match the price of $14 per barrel offered by the Bahama Petroleum Company. Upon learning that the crude was not subject to the Alaska Pipeline Act restrictions, Meyer and Hull talked with Knubel and William Walker, FEO General Counsel, who agreed that the application might be granted if it were necessary to do so on legal grounds. Commerce was concerned, however, that this application, if granted, not constitute a precedent for further sizeable exports of crude when domestic refineries were operating at 76% of capacity. The point was also made that approval of the first three applications was granted on the basis of complete documentation certifying that all of the finished petroleum products were to be returned to the U.S. for use by east coast utilities and that export of this crude would not diminish the total quantity or quality of petroleum available to the United States.

Price was not considered by the Commerce Department in processing the three applications as Commerce Department officials did not believe price was within Commerce's area of responsibility.

Based on the above, Acting Secretary Tabor decided on April 12 that the application to export 250,000 barrels of crude should be approved to the extent of 184,000 barrels (subtracting the 96,000 barrels of Permian oil and adding 30,000 barrels of Miller oil). An approval rider would point out to the applicant that the rules would shortly be changed so that he should not treat this approval or any previous ones as precedents for the handling of future cases. In reaching this decision, Mr. Tabor was influenced by Hull's legal finding that Commerce did not have the authority, as the rules were currently worded, to deny an application for the export of crude that was not subject to the provisions of the Alaska Pipeline Act.

Thus, the fourth application was approved on April 12, 1974, and export license number C40416–708–1 was issued on April 15. On May 26, 1974, Citmoco shipped 199,813 barrels of crude from Mobile to Freeport on a Liberian flag vessel.

On April 18, 1974, Commerce Department amended the export regulations relating to crude oil, whether or not it was subject to the restrictions of the Alaska Pipeline Act. Generally, while exports of crude were to be licensed to reflect the policies of the Alaska Pipeline Act and the Emergency Petroleum Allocation Act, the revised regulations were designed to assure that any export of crude would be part of a transaction which would result in either (a) an interchange for an equal or greater quantity of crude, (b) in the case of crude not transported by pipeline over a Federal right-of-way, an exchange for an equivalent quantity of imported petroleum products under conditions which

would not impair FEO's policy of increasing refining capacity to optimum levels, or (c) the exporter has made reasonable efforts to dispose of the commodity domestically and due to particular circumstances beyond his control such commodity cannot be disposed of domestically without his incurring substantial economic hardship.

VII. SUBCOMMITTEE STAFF INVESTIGATION REGARDING ALLEGED POLITICAL PRESSURE BY CONGRESSMAN HUGH CAREY

The following information was obtained from review of Commerce and FEO/FEA records and staff interviews with persons involved in this matter.

According to Charles Owens, former Deputy Assistant Administrator in the Office of Policy, Planning and Regulations, FEO, he received the information concerning Bart Chamberlain's exports of crude oil to Edward Carey's refinery and possible political influence from a Vice President of Gulf Oil Corporation, Lloyd Schweizer, during a telephone call in early 1974. Following the call, Owens gave Robert Gossin, a compliance specialist on his staff, a note containing the following jottings: Chamberlain, Citronelle crude, independent in Mississippi [sic], BORCO, N. E. Senators. Owens asked Gossin to investigate the matter.

According to Schweizer, Owens initiated the call to him around February 1974. Owens, Schweizer said, asked if he knew crude was being exported. Schweizer said he told Owens there were rumors that it was, but that he never indicated that it was being done or by whom. He said he would have no way of knowing if political pressure had been applied. He said he did not remember discussing BORCO or Chamberlain with Owens, but if Owens had raised them with him, he would have had to say he did not know. Schweizer said he certainly did not volunteer the names of any political figures and that he did not know until he saw it in the newspapers that political pressure was suspected. Schweizer said he was not in touch with any other FEO official on the matter except Owens. He said he heard rumors that the crude was being exported from another Gulf Vice President, Crude Oil Department, Robert Wiese, who was responsible for crude oil acquisitions.

Gossin advised that Owens instructed him to call Wiese and that he did call Wiese on two occasions. During the initial call, Wiese made reference to the involvement of a New York Congressman in the granting of Chamberlain's export license. Gossin called Wiese a second time and learned that political pressure had reportedly been exerted by Congressman Carey. According to Gossin, Wiese indicated that Carey had arranged the December-January export license. (Actually, two licenses had been granted at the time Gossin called Wiese, but Gossin was under the impression there had been only one.) Gossin acknowledged that he did not ask Wiese how he became aware of this information and did not ask him where the alleged pressure was applied.

Subsequently, Wiese advised Subcommittee investigators that he did not have any evidence of Carey's involvement. He stated that Chamberlain told Jack Coates, then Vice President for Crude Acquisitions for Gulf, that he was making one or two shipments of crude to

BORCO, but after that he would continue selling to Gulf. Gulf officials were disturbed at the loss of lubricating oil, but they only had a verbal agreement with Chamberlain—not a written contract.

Wiese said that someone outside of Gulf—he could not remember whom—mentioned "the possibility" of a New York Congressman playing a role in obtaining the export license and that he told Gossin that he heard there was pressure from Congressman Carey. Wiese said he never asked the source what evidence there was of Carey's involvement and never has had any proof of it but decided it sounded logical and reasonable since BORCO is owned by Edward Carey. He said he "could not believe then and cannot believe now that in a period when there was a shortage of oil and there was talk of gasoline rationing that export licenses could be obtained from the Commerce Department without someone questioning them or without someone greasing the skids." Claiming to have told Gossin only that he heard there was pressure from Congressman Carey, Wiese said he passed on this second-hand information because Gulf officials were concerned at the loss of the lubricating oil and thought FEO could help get it back. He acknowledged that he never had information—then or now—on where the alleged political pressure was applied. He advised that he never talked to Commerce Department officials concerning this matter.

Gossin advised that following his conversations with Wiese, he called Robert Kan, the reviewing officer for export license applications at Commerce to check on Chamberlain's export license. Gossin said he was circumspect and did not mention Congressman Carey's name to Kan. Gossin merely inquired if there had been "congressional interest" in the matter, and Kan indicated there was. Gossin said he assumed Kan was referring to Congressman Carey, although no names were mentioned.

Robert Kan advised that he received a call from Gossin on March 8, 1974, relating to a possible price violation against Citronelle-Mobile Gathering, Inc. Gossin desired export license information concerning crude shipments allegedly made by this firm. Kan referred Gossin to the proper section to obtain this data. Kan advised he could not recall any inquiries by Gossin concerning Congressional interest in this matter. Kan stated it is possible Gossin may have made such an inquiry, but he could not recall it, nor does Kan's memorandum for the file, reporting Gossin's call, contain any reference to such an inquiry. Kan advised that to his knowledge neither Congressman Carey nor anyone from his office or on his behalf ever made any contact whatsoever in connection with this matter.

Gossin acknowledged that this was the extent of his investigation before he wrote a memorandum to his supervisor, Charles Owens, on March 12 that: "I have verified that the shipments were made under an export license granted by the U.S. Department of Commerce with a certification to the effect that the refined products would be returned to the United States. Additionally, we have been advised that the crude was sold to Ed Carey of BORCO and that the export license was arranged for by Carey's brother, Rep. Hugh Carey of New York." On April 1, Charles Owens wrote a memorandum to Michael Hunter, Office of Operations and Regulations, asking him for an IRS investigation. It included the sentence, "Reportedly, subject [Bart Chamber-

lain] obtained an export license with the assistance of Carey's brother, Representative Hugh Carey of New York."

Jean Heller, the Cox reporter who broke the story, advised that her original tip came from an FEO official who attended a dinner party at her house in mid-March 1974, who has left the area for private industry and who has subsequently refused to return her calls. The source asked for and was guaranteed confidentiality. John Weber, former Assistant Administrator, Regulations, Operations and Compliance, FEO, was at a dinner party at Jean Heller's in the Spring of 1974 but claimed he was not her source and said he had not talked with her since that dinner party. Weber later checked his diary and stated the date of the dinner party he attended at Jean Heller's was mid-May 1974.

Charles Owens and Robert Gossin, by their own admission, were sources for Jean Heller's stories. Gossin advised that the other FEO officials he suggested Jean Heller talk with were John Vernon (who was asked to conduct an investigation to see if any FEO officials were culpable), Charles Owens, William Walker (General Counsel) and John Weber.

Gossin advised that Charles Owens told reporters that he, Gossin, received a call from Carey directly. Gossin stated he never received a phone call from Carey and does not know anyone who did. Owens acknowledged that Gossin subsequently corrected him.

Gossin said his only concern in conducting the investigation was whether the transactions had avoided price regulations. If they involved supplier/purchaser relationships, it belonged in Weber's shop. The case did involve supplier/purchaser relationships—albeit informal ones.

It should be noted that in a second story following Governor Carey's denial of any involvement in this matter, Jean Heller attempted to confirm the information in Gossin's memorandum concerning Carey's involvement. She reported that she asked Gossin if he were absolutely certain on the basis of his investigation of Hugh Carey's involvement to which he replied, "Yeah, or I wouldn't have written it."

John Venners, formerly of the Office of Congressional Affairs, FEO, by his own admission, was the source of Martin Tolchin's stories in *The New York Times*. After reading Jean Heller's first story in *The Washington Post*, June 22, he remembered that he had received a call from Congressman Carey's office. He mentioned this over lunch to Bob Nipp, Director of FEO's Office of Public Affairs, and Nipp suggested to Tolchin that he call Venners, which Tolchin did. According to Venners, Tolchin asked him how many calls had been made. He told him he had received one call and that there may have been others. According to Venners, Tolchin asked him if there might have been six or eight. Venners said he replied flippantly that there might have been, meaning, he says, that there might have been a large number or none—he just didn't know. In a story datelined June 25, Tolchin wrote: "The Federal Energy Administration was told by one of its former officials today that repeated efforts were made by the office of Governor Carey, while he was serving in the House of Representatives, to intervene to obtain a Federal license in an oil deal involving his

brother, Edward M. Carey. The former aide said that between December 1973 and March 1974, his office had received six to eight telephone calls from members of Mr. Carey's Congressional office on behalf of the licensing. The former aide said that he had received two of the calls himself and that the remainder had been received by his colleagues."

After the article appeared, Venners said he called Tolchin and complained that Tolchin had misrepresented what he had said. Venners said that Tolchin told him that what he wrote was what he understood Venners to say. Tolchin advised Subcommittee investigators that his source was confident that what he described as happening actually happened. After the first article appeared reporting six to eight calls, the source said he was going to check his telephone logs but later told Tolchin he could not find them. Tolchin said he subsequently wrote an article reporting that the number of calls was not six to eight but two to four.

After seeing Tolchin's first article in print, Venners said he decided that things were getting out of hand and requested a meeting with FEA Administrator, Frank Zarb. FEO became FEA on June 27, 1974. That meeting was held on June 28, 1975. Present were Zarb, General Counsel Robert Montgomery, and Deputy Counsel Douglas Robinson, who wrote a memorandum for the files on June 30. Venners told them that he remembered a phone call from a staff member in Congressman Carey's office. He said the individual simply asked how one obtained an export license for crude oil. Venners said he assigned one of his employees, probably Abigail Fell, to obtain the necessary information. He believed that Fell may have had a few additional telephone conversations with Congressman Carey's office before it was determined that a Mr. Jack Gaines in the Department of Commerce was the person who should be contacted. Venners said that to his knowledge the only inquiry made to FEO by Congressman Carey's office was the procedure for obtaining an export license.

Venners advised that he could not remember whether the call from Carey's office came from a male or female staff member and could not remember if the Office of Congressional Affairs called Carey's office back with the information or if Carey's office called back.

Mr. Gaines said he never had any contact with Congressman Carey or with anyone representing Congressman Carey.

Abigail Fell advised she had no recollection of an inquiry from Congressman Carey's office concerning how one obtained an export license for crude oil. She said she might well have worked on this and determined that Mr. Gaines in the Commerce Department was the proper person to contact and may have furnished this information to Carey's office, but she simply had no recollection of it. She pointed out that the Office of Congressional Affairs was virtually inundated with calls during the Arab embargo requesting information and any such call would have been handled like the others.

Martha Golden, Governor Carey's secretary, who held the same position when he was Congressman, advised she had no recollection of anyone on the Congressman's staff making an inquiry of FEO or Commerce regarding how to obtain an export license for crude oil. She said that while it was possible that a staff employee may have made such a call, she doubted such a call was made since, in all probability,

she would have been aware of it, and there had been no discussion in the office, or any pending matter, dealing with exports of crude oil.

VIII. DEFICIENCIES IN THE HANDLING OF THE MATTER BY THE DEPARTMENT OF COMMERCE

a. The embargo period

On October 17, 1973, approximately 1½ months prior to the initial application by Citronelle-Mobile Gathering Co., Inc. (CITMOCO) for its first export license, the Arab embargo began. Imports of crude oil necessary to the energy-intensive American economy fell from 3.7 million barrels per day in October to 3.4 million barrels per day in November. As the amounts of oil already committed to transport began to plunge, the quantity of imports shrank further. Imports in December averaged 2.9 million barrels per day while in January of 1974, after OPEC oil already "in the pipeline" had been largely exhausted, imports totaled 2.3 million barrels per day or a 37.8 percent decrease from October of 1973.

The Report of the Committee on Interstate and Foreign Commerce to accompany the bill H.R. 9861, the Emergency Petroleum Allocation Act of 1973 (P.L. 93–159), details the impact of these shortfalls. (See H. Rep. 93–531) Liquid petroleum gas necessary for crop drying and other agricultural operations was unavailable in many areas and, where it was available, prices had jumped 300 percent. Many school systems could not obtain supplies of heating fuel. Some 2,000 independent retailers were forced out of business because of a shortage of gasoline to sell to the public. By late December 1973, the press began carrying stories on a new phenomenon in American life, the gasoline line.

b. Congressional action

An immediate legislative response was essential. On November 16, 1973 the Alaska Pipeline Act (93–153) became law. This Act authorized construction of the Trans-Alaska pipeline necessary to make available to American consumers Alaska's important petroleum resources. Eleven days later on November 27, 1973, the Emergency Petroleum Allocation Act of 1973 (P.L. 93–159) became law.

Both Acts addressed an obvious weakness in Federal regulation of petroleum in a period of substantial short supply—the unnecessary export of domestic crude oil. The Alaska Pipeline Act amended section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) to prohibit the export of ". . . domestically produced crude oil *transported by pipeline over (Federal) rights-of-way* . . ." (emphasis added). Even this prohibition on exports of a limited class of domestic crude oil was further circumscribed by the allowance of exemptions. Exports of oil could be authorized if (a) the export was to an adjacent country, (b) the transfer constituted part of an exchange of a similar quantity of crude oil or was exported and reimported into the U.S., and (c) such export did not diminish the quantity or quality of petroleum available to domestic commerce. The Alaska Pipeline Act was an important, though limited, first step in the regulation of petroleum exports.

The Emergency Petroleum Allocation Act of 1973 was and is more sweeping in its mandate. Representing the first comprehensive legislative enactment dealing with the energy crisis, the Act required in Sec-

tion 4(d) that "crude oil . . . produced . . . within the United States shall be totally allocated for use by ultimate users within the United States to the extent practicable and necessary to accomplish the objectives of subsection (b)." Section 4(b) mandated that regulations, to the maximum extent practicable, provide for, inter alia:

(A) protection of public health, safety and welfare . . .;

(B) the allocation of . . . crude oil to refineries in the United States to permit such refineries *to operate at full capacity* (emphasis added);

(C) equitable distribution of crude oil . . . *at equitable prices* (emphasis added); . . .

The Administration worked closely with the Congress on the provisions of this Act and Section 4(a) required the President to promulgate regulations, including Section 4(d) regulations, "(not) later than fifteen days after the date of enactment of the Act" or by December 12, 1973. This was six days prior to Citmoco's initial license application and 14 days prior to approval of Citmoco's first application.

c. Commerce Department analysis of the congressional enactments

The provisions of the Emergency Petroleum Allocation Act were known by the Department of Commerce. In a memorandum dated December 5, 1973, the subject of which was "Authority to Impose Export Controls . . . under the EPAA." to Secretary of Commerce Dent from Karl E. Bakke ,the Department's General Counsel, Mr. Bakke wrote: "On the basis of the authority contained in Section 4(d) and its legislative history, I have concluded that the President not only has the authority but is *required to establish export controls on crude oil* (emphasis added) . . ." The General Counsel's memorandum further notes in regard to the bill sent to the House by the Committee on Interstate and Foreign Commerce that the provision relating to export controls, a provision identical to section 4(d) of the Act except for the exclusion of lubricating oils, that "the Committee intended for the President to have discretion to authorize exports . . . *as long as such exports are consistent with objectives of the Act* (emphasis added)." It was also stated that "Section 4(a) of the Emergency Petroleum Allocation Act of 1973 requires that regulations be promulgated not later than fifteen days from enactment (December 12) . . ."

In light of the General Counsel's understanding of the letter and spirit of the Emergency Petroleum Allocation Act, it is surprising that his recommended method of meeting the Executive's obligations under the Act failed to include any consideration of the full use of domestic refinery capacity or maintenance of equitable prices. Rather than address and carry out the objectives of the Act, under Section 4(b), the General Counsel sought to find support for the institution of a quota program based on 1972 export levels. Mr. Bakke based his argument in favor of such a program on the language in the Conference Report relating to domestic allocations and the "flexibility" granted the President by the Act. It is interesting to note that Mr. Bakke could not find a similar "flexibility" in the narrower Alaska Pipeline Act upon which to base an apparently preconceived Departmental program. Finally, the Bakke memorandum evinces strong reservations over the administrative procedures mandated by the Allocation Act (the procedures of the Economic Stabilization Act of 1970

(P.L. 91–151)) as these procedures were less "flexible" and more burdensome to the Department.

d. Promulgation of oil export regulations by the Department of Commerce

Pursuant to Executive Order 11748, the Department of Commerce, by December 7, 1973, accepted responsibility for initiating "a system of export controls . . . to fulfill the President's responsibility under 'The Emergency Petroleum Allocation Act of 1973'." (See Appendix A and letter of Secretary Morton to Chairman Moss, Appendix B.) This delegation was confirmed by the issuance of petroleum export regulations by Commerce on December 13, 1973 (Export Administration Bulletin No. 106, EAB–OEO–106, 15 CFR § 377) and FEO regulations deferring to Commerce with respect to export controls on December 24, 1973, 15 CFR §211.1(b)(1).

In a letter from then Secretary of Commerce Dent to William Simon, dated December 10, 1973, the Secretary stated that the regulations "will fulfill in toto the export controls required by the Emergency Petroleum Allocation Act." In fact, the Commerce Department's December 13, 1973 regulations (effective December 14, 1973) were issued pursuant to the Export Administration Act of 1969 (P.L. 91–184), apparently to sidestep congressionally mandated procedures required by the EPAA, and authorized any and all exports of crude oil not prohibited by the Alaska Pipeline Act. These regulations contained no reference to the Allocation Act's 4(b) criteria. In particular, the December 13, 1973 regulations did not address the mandate of Section 4(b)(1)(E), relating to maximum use of U.S. refinery capacity, or Section 4(b)(1)(F), relating to equitable prices.

Not until April 18, 1974 did the export regulations also reflect the provisions of the Emergency Petroleum Allocation Act by requiring that the exporter not only demonstrate that the crude was not and will not be transported over a Federal right-of-way and that the license will result in no loss of supply but that the exporter must first offer the crude domestically. The last requirement reflected the fact that U.S. refineries at the time were operating at about 76 percent capacity and the fact that imported oil at unregulated prices would contribute to inflation. It should be noted that this reform of the regulations to address the mandate of the EPAA constitutes some 20 lines in the Code of Federal Regulations. 15 CFR § 377.6(d)(ii).

e. The Citmoco export licenses approved by the Department of Commerce

The December 13, 1973 regulations issued by the Department of Commerce were obviously deficient. It is because of these regulations that Citmoco was allowed to sell crude oil for 2½ times the controlled price.

However, even these flawed regulations were improperly administered. The first three license applications were approved without hesitation by the Petroleum Section, Office of Export Administration because, according to Robert Kan, they met all the technical requirements then on the books. But Subcommittee analysis of the first three license applications and supporting documents supplied by the Department of Commerce indicates Commerce had insufficient data to deter-

mine whether all "technical" requirements had been met. Specifically, the documents relating to the first three applications contain no specific assertion by the applicant or Commerce officials that the oil to be exported had not been transported by pipeline over Federal rights-of-way. Not until the fourth application (April 2, 1974) did Commerce request or receive an affidavit or other document from the applicant asserting that the oil to be exported was not subject to the provisions of the Alaska Pipeline Act. (This was confirmed by staff interviews with officials of the Department of Commerce.)

Since such information was essential to a determination of compliance or non-compliance with regulations developed pursuant to the Alaska Pipeline Act, the failure to seek such information and the speed with which the applications were approved, a matter of a few days in each case, reflects superficial administration of even the limited December 13, 1973 regulations.

f. Reform of Commerce Department oil export regulations

The Department of Commerce never independently initiated reform of its regulations to meet the requirements of the Emergency Petroleum Allocation Act. Only when Robert Kan received a call from Robert Gossin that FEO was investigating Citmoco for possible violation of FEO price and allocation regulations did Commerce consider denying the fourth application and reconsider the appropriateness of its oil export regulations.

The fourth license application was discussed at two meetings of the Exceptions Committee. Ron Hoffman, who worked for John Knuble, Deputy Assistant Administrator for International Energy Affairs, was the FEO representative on that committee. He remembers two meetings to discuss the fourth license application. Hoffman checked with Knuble who checked with FEO Administrator, William Simon.

The latter objected to the granting of the fourth license. Meanwhile, Commerce's Assistant General Counsel for Domestic and International Business, Richard Hull, was also checking with FEO's General Counsel, William Walker, and FEO's legal opinion was that Commerce had no legal basis for denying the fourth application. The reason Commerce had no legal basis to deny the application was because the December 13, 1973 regulations implemented only the Alaska Pipeline Act while ignoring the provisions of the Emergency Petroleum Allocation Act.

Ultimately, Commerce was forced to approve the fourth application. It then amended its regulations to reflect the mandate of the Emergency Petroleum Allocation Act of 1973 on April 18, 1974, four months after such regulations were required to be issued by the Act and some 4½ months after the Act was signed into law by the President.

APPENDIX A

THE SECRETARY OF COMMERCE,
Washington, D.C. December 10, 1973.

Hon. WILLIAM E. SIMON,
Deputy Secretary of the Treasury
Washington, D.C.

DEAR BILL: This will confirm your decision of Friday afternoon directing that the Department of Commerce initiate a system of export controls on petroleum products to fulfill the President's responsibility under "The Emergency Petroleum Allocation Act of 1973."

To simplify administrative procedures and avoid the necessity of publishing a new set of rules for comment, we propose moving under the authority granted us under the Export Control Act, but will fulfill in toto the export controls required by the Emergency Petroleum Allocation Act of 1973. In addition, the Alaskan Pipeline Act requires the restriction of domestically produced crude which has been transported by pipeline over Federal Rights of Way. We will design our system to fulfill the requirements of this legislation also.

As you have requested, we are currently developing the procedures under which we will accomplish the control program and will review them with John Knubel before announcing or initiating them.

Sincerely yours,

FREDERICK B. DENT,
Secretary of Commerce.

APPENDIX B

THE SECRETARY OF COMMERCE,
Washington, D.C.

Hon. JOHN E. MOSS,
Chairman, Subcommittee on Oversight and Investigations, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In further response to your letter of June 23, 1975, requesting a report on the issuance by this Department of licenses for the export of crude oil to a Bahamas refinery, I am pleased to provide the information set forth in the enclosed report.

As you know, much of the information contained in this report is of a confidential nature, pursuant to Section 7(C) of the Export Administration Act of 1969, as amended. Accordingly, I would highly appreciate your Subcommittee giving the enclosed report confidential treatment to the maximum extent possible consistent with the purposes for which you have requested this information.

Sincerely,

ROGERS MORTON,
Secretary of Commerce.

REPORT ON THE ISSUANCE OF LICENSES TO CITMOCO, INC. (MR. BART CHAMBERLAIN) PERMITTING THE EXPORT OF DOMESTIC CRUDE OIL TO A BAHAMAS REFINERY

In December 1973, at the request of, and in cooperation with, the Federal Energy Office, the export of crude oil and certain petroleum products from the United States was placed under strict licensing control by this Department. Although the short supply authority (Section 3(2)(a)) of the Export Administration Act of 1969, as amended and extended, was used in initiating the control system, in order to simplify administrative procedures, the purpose of the controls was to implement the provisions of the Alaskan Pipeline Act of November 16, 1973, and the Emergency Petroleum Allocation Act of November 27, 1973.

Regulations were published on December 13, 1973, in Export Administration Bulletin No. 106, which provided that the Office of Export Administration would consider applications for validated licenses to export crude oil during 1973 to the extent permissible under the provisions of the Alaskan Pipeline Act, if it were demonstrated by the applicant that the proposed export would not diminish the total quantity or quality of petroleum available to the United States. This regulation was continued until April 18, 1974, by subsequent Export Administration Bulletins. The Federal Energy Office concurred in these regulations.

Three licenses were issued late in 1973 and early 1974 to Citronelle Mobile Gathering, Inc. (Citmoco) of Mobile, Alabama, authorizing the export of crude oil to the Bahamas. Each application for a license was supported by an affidavit certifying that all of the various petroleum products refined from the crude oil would be returned to the United States. The Office of Export Administration was satisfied that the export of this crude petroleum would not diminish the total quantity or quality of petroleum available to the United States.

Another application was filed by Citmoco in early April 1974. During discussions with FEO officials, the latter noted that licenses should not be issued for exports, even though the transaction involved a return of finished products to the U.S., unless the applicant could demonstrate that he had made every reasonable effort to dispose of the crude oil domestically.

The applicant was advised of this fact, whereupon attorneys for the applicant submitted evidence that the oil which was to be exported was not subject to the export restrictions of the Alaskan Pipeline Act. That Act is applicable to all crude oil domestically produced (whether or not in Alaska) which is transported through pipelines crossing Federal rights-of-way. The crude oil produced in the

applicant's oil fields at Citronelle was transported some thirty miles to the port of exportation through a pipeline which did not cross any Federal rights-of-way. This highly unusual fact was fully documented by the plats of the pipeline submitted by the attorneys for the applicant. Moreover, the applicant indicated that in reliance on prior approvals of three licenses, it had allowed its storage tanks to fill up and it would be necessary to shutdown production at the Citronelle fields for lack of storage space unless the export under the fourth license application was authorized during the following days. In addition to the financial loss which such a shutdown would cause to the applicant, it was explained that because these fields were operated on a water recovery basis, a shutdown would result in a permanent loss of a substantial amount of crude to the United States.

Following discussions between Commerce and FEO lawyers, it was concluded that our regulations had not been drafted to cover this unique situation, the underlying assumption having been that all crude oil produced in the United States was transported through pipelines crossing some Federal rights-of-way. Most importantly, our regulations did not include a requirement that the applicant must have demonstrated that he had made every reasonable effort to dispose of the oil domestically.

For these reasons it was decided, with the concurrence of FEO, to issue this fourth license and to amend our regulations so as to preclude the granting of any further licenses on these terms.

The export regulations were amended on April 18, 1975, to provide an additional licensing criterion; namely, that the exporter has made reasonable efforts to dispose of his crude oil domestically and that due to particular circumstances beyond his control, he cannot dispose of such crude oil domestically without incurring substantial economic hardship. A mere showing that there is an opportunity to sell at a higher price in a foreign market is not considered, by itself, to constitute an economic hardship.

No license for the export of crude oil has been issued since the regulations were changed. There are no applications for licenses pending before the Office of Export Administration at this time.

The specific questions raised in your letter of June 23, 1975 are dealt with below.

(a) *Question.* Were such licenses granted [to Mr. Bart Chamberlain (Citmoco)]?

Answer. As noted above, three licenses were issued to Mr. Chamberlain (Citmoco) late in 1973 and early 1974, and a fourth license was issued to the same firm in April 1974. Subsequent to the issuance of that fourth license, the Department amended its regulations so as to preclude the issuance of any further licenses on the same terms, and none has been issued since.

(b) *Question.* What persons contacted the Department of Commerce or the Office of Export Administration in support of granting of the licenses?

Answer. A search of the records of this Department revealed that the only persons who contacted this Department in connection with the first three license applications were: David M. Tappen, Vice-President of the applicant firm, Citronelle Mobile Gathering, Inc. (Citmoco) of Mobile, Alabama; C. Alexander Hewes, Jr., of Smith & Hewes, Attorneys-at-Law, Washington, D.C. representing Citmoco; and Wendy K. Mariner of Satterlee & Stephens, New York City.

Mr. Hewes was the principal contact with the Department in connection with these applications. While affidavits signed by Edward M. Carey, President of New England Petroleum Co. (NEPCO), and Thomas C. Covert, Managing Director of Grand Bahama Petroleum Company Limited (Grand Bahama) are also contained in the file, they were submitted routinely in support of these applications—as required by our regulations—either by Citmoco or its attorneys.

In connection with the fourth license application, submitted by Citmoco in April 1974, the following persons contacted the Department: C. Alexander Hewes, Jr., Lewis H. Odom, Jr., and Hugh H. Smith, all of Odom, Smith & Hewes, Washington, D.C.; Bart Chamberlain, President and Chief Executive Officer of Citmoco.

Again, the person in principal contact with the Department was Mr. Hewes. Routine affidavits signed by David M. Tappen, Edward M. Carey, and Alan S. Hoskins, Director and Treasurer of Grand Bahama, were also submitted by Citmoco or its attorneys in support of these applications—as required by Department of Commerce export regulations . . .

No evidence has been discovered to date in Departmental records or the recollections of its officials to indicate that then Congressman, now New York Governor, Hugh Carey, or his staff, at any time interceded with Department of Commerce officials in connection with, or inquired about the status of, any of the Citmoco license applications. Moreover, the only connection with these applications of Edward Carey, President of NEPCO, of which this Department is aware, was in the preparation of affidavits as to the intended processing in the Bahamas and return to the United States of the petroleum products to be refined from the exported crude—affidavits which were required by our regulations and which were routinely submitted by Citmoco along with its license applications.

(c) *Question.* What other licenses permitting the export of domestic crude oil have been granted since June 1, 1973?

Answer. No licenses, other than the four cited above, have been issued by this Department for the export of crude petroleum since June 1, 1973. However, two other firms have been issued letter authorizations, in lieu of licenses, to export crude petroleum temporarily for convenience of transportation across parts of Canada in transit to a domestic United States refinery, all of the crude petroleum reentering the United States in the same form.

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